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EXAMINER
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CHRISTENSEN, SCOTT B

ART UNIT	PAPER NUMBER
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2144

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/686,206

**Applicant(s)**

ROBINSON ET AL.

**Examiner**

Scott Christensen

**Art Unit**

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. This Office Action is in regards to the most recent papers filed on 6/26/2006.

### ***Claim Objections***

2. Claims 8 and 17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 8 and 17 states, "wherein the 3D desktop environment is presented as one of a room, neighborhood, city, landscape, or other spatial environment." "Other spatial environment" appears to not further limit the parent claim, as any 3D environment is a spatial environment of some sort.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

Art Unit: 2144

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 9 of U.S. Patent No. 7,168,051.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between claims 1-4 of the instant application and claims 1 and 9 of Patent 7,168,051 (other than the use of the terms "first computer system" and "first user" without the inclusion of a second computer system or a second user in Patent 7,168,051 as opposed to "a computer system" and "a user" in the instant application.) is "including displaying at least a portion of the content of the converted web page in a persistent client window of the 3D desktop that is persistent even if a connection between the first computer system and the Internet has been terminated."

The ability to navigate to a Web page, and continue to view the single Web page in a browser window is very well known in the art, and has been implemented before the filing of the instant application in versions of Internet Explorer, Netscape Navigator, and other browsers. When a user connects to a Web page using one of these browsers, the page stays on the screen, even if the user disconnects from the Internet, until the user closes the window. When this functionality is implemented in the invention as claimed in claims 1-4, the 3D environment would download the information for the Web page, and display the Web page until it is navigated away from or closed, even when the connection to the Internet is terminated, thus rendering the claims 1 and 9 of Patent

Art Unit: 2144

7,168,051 obvious in view of the claims 1-4 of the instant application. Furthermore, claims 1-4 of the instant application clearly anticipate claims 1 and 9 of Patent 7,168,051. As such, neither claims 1-4 of the instant application nor claims 1 and 9 of Patent 7,168,051 are patently distinct, rendering claims 1-4 of the instant application rejected on the ground of nonstatutory obviousness-type double patenting.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Number 6,088,032 to Mackinlay, hereafter referred to as "Mackinlay."

With regard to claims 1 and 2, Mackinlay discloses a method and a data processing system-readable medium having a plurality of instructions executable by a data processing system embodied therein, wherein said instructions when executed cause said data processing system to perform a method comprising: providing a three-dimensional (3D) computing environment (Mackinlay: Figures 2-9 and 13-16 and column 4, lines 43-49) representing a 3D desktop of a computer system in a 3D environment (Mackinlay: Column 9, lines 29-37), wherein one or more icons are

displayed on a plurality of surfaces of the 3D desktop (Mackinlay: Figure 2a. Each object shown in figure 2a constitutes an icon, as it represents a document object, phone directory, etc.); receiving a two-dimensional web page from a Web server (Mackinlay: Column 11, line 62 to column 12, line 8. As the environment is being used to perform operations with respect to a web page, the web page must have been received.) over the Internet (Mackinlay: Column 1, lines 41-45. Web pages, as used in Mackinlay, are documents that have been sent over the Internet.); converting the two-dimensional web page to a form usable in the three-dimensional computing environment (Mackinlay: Column 5, lines 41-50); and presenting content of the converted web page within the 3D desktop (Mackinlay: Figures 13 and 14) to allow a user of the computer system to navigate the content of the web page within the 3D computing environment (Mackinlay: Column 11, line 63 to column 13, line 9. The ConeWalker allows users to navigate the web pages.).

With regard to claims 3 and 4, the claimed subject matter is substantially similar to the claimed subject matter of claims 1 and 2, and is rejected for substantially similar reasons.

With regard to claim 14, Mackinlay discloses navigating via the 3D desktop content stored in the computer system (Mackinlay: Column 5, lines 59-60 and Figure 1. The external storage is part of the computer system, as shown in figure 1, and may store the documents that are to be navigated via the 3D desktop.).

***Claim Rejections - 35 USC § 102***

7. Claim 5 rejected under 35 U.S.C. 102(e) as being anticipated by Gallo in US Patent Number 6,636,246, hereafter referred to as "Gallo."

Gallo discloses a method comprising accessing a website from a client computer over the Internet (Gallo: Column 5, lines 7-18 and Column 8, lines 16-17); automatically accessing a 3D environment server in response to the access to the website (Gallo: Column 5, lines 7-18 and Column 12, lines 17-26); generating a 3D environment representing the content of the website using resources of the 3D environment server (Gallo: Column 4, lines 46-51 and Column 11, lines 32-47. It is noted that the claim does not specify how the resources of the server are utilized. Therefore, using the resources of the 3D environment server can include, for example, simply downloading the information that allows the environment to be generated on the client, as the resources of the server's network interface are being used.); presenting the 3D environment at the client computer having the content of the web site in a 3D manner to allow a user of the client computer to navigate the content of the web site in the 3D environment (Gallo: Column 4, lines 45-51); and retaining information related to navigating the content of the website displayed in the 3D environment in the repository (Gallo: Column 10, lines 28-31).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2144

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6-13 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackinlay.

With regard to claim 6, Mackinlay discloses the invention as substantially claimed except downloading a 3D environment development program to the computer system from a Web server over the Internet; and using the 3D development program to convert a 2D desktop environment into a 3D desktop environment.

Downloading software from a web server to a computer system and installing the software is very well known in the art.

It would have been obvious to combine Mackinlay with the steps of downloading the software of Mackinlay and installing the software (thus, converting the standard two dimensional workspace that would be used for navigating the documents in Mackinlay into the 3D desktop environment that is contained within the downloaded software).

The suggestion/motivation for doing so would have been that on-line distribution of software allows users to download the software without requiring that the user bring physical discs to each computer that is to have the software installed on it. Instead, a system that is remote to the web server can simply download the file at the convenience of the user, then install the same software for the user to utilize.

With regard to claim 7, Mackinlay teaches that the 3D desktop environment is configured to allow a user to place an icon within up to a 360° spatial environment (Mackinlay: Column 3, lines 59-67. It is noted that the only requirement of this claim is

that the user be able to place an icon. As the claim states "up to a 360° spatial environment," placing the icon in a two-dimensional image still meets this claim limitation. Mackinlay, though, teaches the ability to place the icon in a 360° spatial environment.).

With regard to claim 8, Mackinlay teaches that the 3D desktop environment is presented as one of a room, neighborhood, city, landscape, or other spatial environment (Mackinlay: Figure 2b).

With regard to claim 9, Mackinlay teaches that the 3D desktop environment is configured to allow a user to place an icon on a plurality of walls of the one of a room, neighborhood, city, landscape, or other spatial environment via a drag-n-drop operation (Mackinlay: Figure 2b and column 3, lines 59-67. The touch and drop gesture is a drag-n-drop operation.).

With regard to claim 10, Mackinlay teaches the invention as substantially claimed including the step of receiving a second Web page from the Web server over the Internet (Mackinlay: Column 1, lines 41-45). Mackinlay does not disclose expressly determining whether the second Web page is a 3D enabled Web page; and presenting the second Web page, if the second Web page is a 3D enabled Web page, in the 3D computing environment without converting, wherein the conversion is performed only if the second Web page is not 3D enabled.

A person of ordinary skill in the art would have known how to determine whether the second Web page is a 3D enabled Web page; and present the second Web page, if the second Web page is a 3D enabled Web page, in the 3D computing environment

Art Unit: 2144

without converting, wherein the conversion is performed only if the second Web page is not 3D enabled.

It would have been obvious to determine whether the second Web page is a 3D enabled Web page; and present the second Web page, if the second Web page is a 3D enabled Web page, in the 3D computing environment without converting, wherein the conversion is performed only if the second Web page is not 3D enabled.

The suggestion/motivation for doing so would have been that 3D web pages may be encountered while the user is downloading web pages over the Internet, and the ability to browse these web pages as well as the standard 2D web pages allows immersive three dimensional web pages that can fully utilize the 3D environment of Mackinlay to be viewed. According to Mackinlay, the conversion is only to bring the web page into a suitable format for use in the workspace (Mackinlay: Column 5, lines 39-45). If the conversion operations that are performed on a 2D web page is not necessary, as the web page is already in a format suitable to be viewed in a 3D environment, having the processor perform the same conversion operations as for a 2D web page would not only be rather difficult to perform due to the differing formats, but would be a waste of resources (It is noted that the examiner is interpreting the terms "converting" and "conversion" to be referring to the step of "converting the two-dimensional web page to a form useable in the three-dimensional computing environment.").

With regard to claim 11, Mackinlay teaches that determining whether the second Web page is a 3D enabled Web page is performed by an interpretation application

Art Unit: 2144

installed within the computer system (Mackinlay: Column 5, lines 37-50). As the system receives the web page from the URL, any determination of format would have to be performed by the computer system of Mackinlay, even if the determination of format involves simply receiving a message from a server indicating what the format is, as the computer system is what is actually performing the conversion and displaying operations. Whatever code handles the interpretation would constitute an "interpretation application.").

With regard to claim 12, Mackinlay teaches the invention as substantially claimed except embedding one or more attributes of the 3D computing environment within the second Web page using an XML-based markup language or other such program language; and presenting the second Web page in the 3D desktop using the embedded one or more attributes of the 3D computing environment by executing the XML-based markup language or such other program language embedded within the second web page.

A person of ordinary skill in the art would have known how to embed one or more attributes of the 3D computing environment within the second Web page using an XML-based markup language or other such program language; and present the second Web page in the 3D desktop using the embedded one or more attributes of the 3D computing environment by executing the XML-based markup language or such other program language embedded within the second web page.

Evidence of this can be found in "XML (Extensible Markup Language)" posted on Whatis.com on March 25, 1999 and downloaded from <

<http://web.archive.org/web/20000301052821/http://www.whatis.com/>>, hereafter referred to as "Whatis." Whatis discloses that XML is a flexible way to create information formats and share both the format and the data on the World Wide Web, intranets, and elsewhere (Whatis: Paragraph 1). Embedding an attribute of the 3D computing environment does limit what attribute is embedded. Thus, the attribute could be the format, as described in the XML file. This format information would then be used to present the web page.

It would have been obvious to embed one or more attributes of the 3D computing environment within the second Web page using an XML-based markup language or other such program language; and present the second Web page in the 3D desktop using the embedded one or more attributes of the 3D computing environment by executing the XML-based markup language or such other program language embedded within the second web page.

The suggestion/motivation for doing so would have been that "XML is currently a formal recommendation from the World Wide Web Consortium as a way to make the Web a more versatile tool." (Whatis: Paragraph 2) Further, it is expected that XML and HTML will be used together in many web applications (Whatis: Paragraph 2). Thus, it would have been obvious to embed XML in the Web page (which is likely in HTML), and use the values in the XML file to present the Web page.

With regard to claim 13, Mackinlay teaches the invention as substantially claimed except presenting the second Web page as a 2D Web page in a 2D environment

Art Unit: 2144

without executing the XML-based markup language or such other program language representing the one or more attributes of the 3D environment.

It would have been obvious to present the second Web page as a 2D Web page in a 2D environment without executing the XML-based markup language or such other program language representing the one or more attributes of the 3D environment.

The suggestion/motivation for doing so would have been that XML is used to describe content in terms of what data is being described (What is: Paragraph 2). Further, the application on the receiving computer can determine how to handle the data described in the XML file. In this case, if code that is only usable by a 3D environment is presented in the XML document, the application of a computer in a 2D environment would not be able to execute the corresponding code.

With regard to claims 15-20, the claimed invention is substantially similar to that claimed in claims 6-11, and are rejected for substantially similar reasons.

### ***Response to Arguments***

10. Applicant's arguments filed 6/26/2006 have been fully considered but they are not persuasive.

On pages 8-9, Applicant appears to argue that Mackinlay does not anticipate claims 1-4 as Mackinlay does not disclose a desktop. Applicant argues that the workspace of Mackinlay is not a desktop. Referring to the instant specification, it appears that there is not explicit definition for desktop. Therefore, a desktop is interpreted using the definition from a person of ordinary skill in the art, as shown in a

whatis.com article, "desktop," posted on the Internet October 12, 1999, and downloaded from <http://web.archive.org/web/20000301052821/http://www.whatis.com/>. According to the desktop article, "a desktop is a computer display area that represents the kinds of objects one might find on a real desktop: documents, phonebook, telephone, reference sources, writing (and possibly drawing) tools, project folders" (Whatis desktop article: Paragraph 1). Using this definition, it is clear that a workspace as disclosed by Mackinlay is a desktop.

On pages 9-10, Applicant argues that Gallo fails to disclose, in response to accessing a Web page, automatically accessing a 3D environment server to convert the Web page into a 3D displayable web page. First, this limitation is not contained within claim 5. Claim 5 only requires that the environment server is automatically accessed in response to accessing a website, and generating a 3D environment using resources of the 3D environment server. The claim does not require that the conversion be performed by the 3D environment server, or that any of the conversion steps be implemented by the 3D environment server. All that is required is that some resource of the 3D environment server is used, which includes using network resources to communicate information about the Web page.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

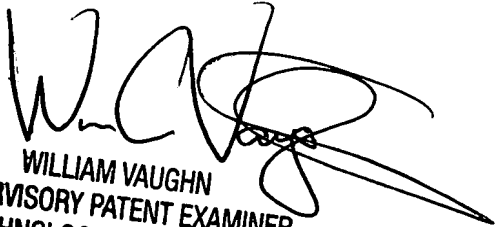
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571) 270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vaughn William can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2144

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SBC

  
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